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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,182	08/24/2006	Donald Scot Thom	34-131	5503
23117 7590 10/23/2008 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
VENNF, DANIEL V				
ART UNIT		PAPER NUMBER		
3617				
MAIL DATE		DELIVERY MODE		
10/23/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/568,182

**Applicant(s)**

THOM ET AL.

**Examiner**

DANIEL V. VENNE

**Art Unit**

3617

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

1. An amendment was received from applicant on 8/28/2008.
2. Claims 1-11 are canceled.
3. Claims 12, 22, 24 and 27 are amended.
4. The replacement drawings are accepted.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 12-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 12-25 includes a feature limitation (recited on lines 10-12 in claim 12) which essentially specifies that the waterplane area of the vessel and dry dock remains substantially constant during lifting and lowering of a vessel. It appears that the waterplane area during lifting and lowering will either increase or decrease and will not remain constant due to the configuration of the dry dock and the vessel and the change in the water surface area as the dry dock vertically ascends or descends in the water. The specification does not substantially support this claim limitation since it does not adequately explain how the waterplane remains constant during dry dock operation.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 12-17 and 19-31 are rejected under 35 U.S.C. 102(b) and (e) as being anticipated by Hey (US 2002/0132537 A1 and US 6823809 B2). Hey discloses all claimed features, including floating dry dock [10] for lifting a vessel (watercraft) [15] in or out of the water, comprising a lifting cradle (structure) [13] having two spaced arms [30] pivotally mounted on a buoyant base [13, 24] having one or more buoyant hulls or floatation tanks [11] interconnecting the arms [30], platform [14, 24] mounted on the arms [30], and platform support means [11, 30, 37] operable to ensure that the platform remains horizontal when the arms pivot about their pivotable attachment [38, 39] to the base, and wherein a vessel (watercraft) [15] is lowered and or raised by pivoting the lifting cradle with respect to the buoyant base. Two extending upright members [19] can be considered floatable cradles attached to the base. The floatable cradles recited by applicant in claims 16 and 17 are considered different components than the lifting cradle recited in claim 12. The plurality of elongate floatation tanks [11] when raised to the positions shown in Figs. 2 and 3 with the arms [30] extended, can be considered to

define a part cylindrical cradle as generally recited. The arms being of an arcuate shape does not carry any significant patentable weight, although the arms [30] of Hey can be considered generally or partly arcuate in shape. Hey includes pairs of links which can be considered configured as generally claimed. Wheels (rollers) [26] are provided on the platform with an arcuate track provided on the platform support means [11] to maintain the platform [14, 24] in a horizontal attitude. See Figs. 1-6C.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hey (US 6823809 B2). Hey discloses all claimed features as indicated above with the exception of the arms comprising inflatable buoyancy tanks. Hey discloses inflatable buoyancy tanks are known in the art in the Background of the Invention. Although Hey does not use inflatable buoyancy tanks, it would have been obvious to one of ordinary skill in the art to provide inflatable buoyancy tanks with Hey to provide additional buoyancy capability to the lifting platform ask known in the art to create the invention as claimed by applicant. The rationale would have been to improve upon the buoyancy capability of the lifting device using a known means to provide the predictable result to increase buoyancy for the floating watercraft lifting apparatus.

***Response to Arguments***

11. Applicant's arguments filed 8/28/2008 have been fully considered but they are not persuasive. Applicant argues that Hey does not disclose all claimed features of independent claims 12 and 26. Applicant's argument that applicant's invention is different than Hey and provides a distinct advantage over Hey is irrelevant. Hey is considered to disclose all claimed features of claims 12 and 26, as indicated above. Applicant does not recite in the claims that air is pumped into and out of the floatation tanks in order to raise or lower the vessel. Similarly, applicant does not recite in the claims that the arms of are pivotally connected to the base at a particularly stationary location and the arms of Hey can be considered pivotally mounted as generally recited by applicant, via rotational axes/pivot points [38, 39] at contact with the base [24].

***Conclusion***

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel V. Venne whose telephone number is (571) 272-7947. The examiner can normally be reached between 7:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DVV

/Lars A Olson/

Primary Examiner, Art Unit 3617